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IN THE

Supreme Court of the United States

OCTOBER TERM, 196

No. _____

ROY ISAACS, S. M. ROOF, LOAL C. WILSON and J. V. GARRETT, *Petitioners*,

vs.

THE CITY OF OKLAHOMA CITY, a municipal corporation, URBAN RENEWAL AUTHORITY, GRANVILLE TOMERLIN, Chairman, F. D. MOON, Vice Chairman, C. KENNETH WOODWARD, Secretary, REUBEN G. MARTIN, member, RALPH L. BOLEN, member, JAMES T. YEILDING, Executive Director; TULSA URBAN RENEWAL AUTHORITY, a purported public body corporate of Tulsa, Oklahoma, and its officers and members, LEEMAN NIX, Chairman, ROBERT LAIRD, Vice Chairman, MURRAY McCUNE, member, PAUL CHAPMAN, Executive Director and Secretary, and THE CITY OF TULSA, OKLAHOMA, a municipal corporation, *Respondents.*

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF OKLAHOMA

Petitioners pray that a Writ of Certiorari issue to the Supreme Court of the State of Oklahoma to review the opinion and judgment of said Supreme Court of December

27, 1966, in consolidated cases No. 41,276 and No. 41,527. Petitions for Rehearing, timely filed, were denied on March 21, 1967, in each case. Applications for Leave to File Second Petition for Rehearing in each case were denied, May 19, 1967.

Orders staying enforcement of mandates are conditioned upon a Petition for Writ of Certiorari being filed in the Supreme Court of the United States on or before June 19, 1967.

OPINION BELOW

The opinion and judgment of the Supreme Court of the State of Oklahoma complained of, covers two State District Court actions, involving identical legal questions. Separate appeals were filed, later consolidated in the Supreme Court for argument, decision and opinion.

The District Court judgments, entered without opinions, not officially reported, are printed, as Appendixes "A" and "B" hereto. The opinion and judgment of the Supreme Court of the State of Oklahoma, affirming and holding the provisions of the urban redevelopment statutes complained of constitutional and not in violation of "due process of law" or "equal protection of the law" provisions of the 14th Amendment to the United States Constitution, is reported in Volume 37, No. 48, pages 2587-2596, of THE JOURNAL, published December 31, 1966, by the Oklahoma Bar Association. A copy of such judgment and opinion is printed as Appendix "C" hereto.

JURISDICTION

The opinion and judgment of the Supreme Court of the State of Oklahoma was entered on December 27, 1966 (Appendix "C" hereto). Petition for Rehearing was timely filed in each case on January 11, 1967. Each was denied March 21, 1967. Applications for leave to file Second Petition for Rehearing were timely filed April 5, 1967, in each case, under Rule 33 of the Oklahoma Supreme Court, and denied May 19, 1967 (R. 169).

The State District Courts sustained General Demurrers to the Petitions. Petitioners elected to stand on the Petitions. The courts dismissed with prejudice. Upon denial of Motions for New Trial, timely filed, (prerequisite to appeal in Oklahoma) appeals by Petitions in Error, with case-made attached in one case, and upon the original records in the other, were timely lodged in the Supreme Court of Oklahoma as provided by law.

Notice of Petition for Certiorari and appeal to the Supreme Court of the United States was timely filed in the Supreme Court of the State of Oklahoma on May 19, 1967, in case No. 41527 and on May 22, 1967, in case No. 41276, with attached Certificates showing service of such Notice upon the attorneys of record for respondents (R. 178 & R. 183). Motions to Stay Mandate and for Clerk to transmit original or copies of record, pending the outcome of this Petition for Certiorari, were duly filed on the 19th and 22nd day of May, 1967, in the Supreme Court of Oklahoma (R. 170 & R. 172); said Court ordered its mandate to issue, but *stayed enforcement* thereof pending the perfecting of appeals by these petitioners to this

Court, and further provided, that, if such appeal will stand perfected on or before the 19th day of June, 1967 (R. 174 & 176) enforcement of the mandate in the Supreme Court of Oklahoma in each case shall be further stayed until such time as the Supreme Court of the United States shall have rendered a final decision therein or pending further orders of the Supreme Court of Oklahoma; conditioned upon the filing of a Stay Bond in the Supreme Court; Stay Bonds, so approved, were filed on the 19th Court, Stay Bonds, so approved, were filed on the 19th and 22nd of May, 1967 (R. 188 & 191).

The jurisdiction of this Court is invoked under Title 28, U.S.C.A., Sections 1257(2) (3) and 2101(c) (f) and Rules 10, 11, 15, 19, 21, 22 and 23 of the Supreme Court of the United States. The petitioners have exhaused all their State Court remedies. The constitutional and federal questions were duly presented to the State District Courts by original and amended Petitions (R. 4, 25 and 47); by Motions for New Trial in said courts (R. 34 and R. 60) and presented to the Supreme Court of the State of Oklahoma by Petitions in Error (R. 1 and R. 44); by the briefs (R. 63 and R. 71); and oral arguments presented in support thereof; in Petitions for Rehearing (R. 90) and supporting briefs (R. 99).

QUESTIONS PRESENTED FOR REVIEW

1. Do the provisions of the Oklahoma Urban Renewal Law offend or violate the "equal protection of the Law" or the "due process of Law" clauses of the 14th Amendment to the Constitution of the United States? Where,

(a) Such provisions (11 O.S.A., Sections 1607, 1657 and 1707) *withhold the rights and opportunity of franchise and self-determination* from the "qualified, property taxpaying voters," in Tulsa and in Oklahoma City, to ultimately determine by majority vote, at a special election for such purpose, whether their city "shall exercise the authority granted" by the Urban Renewal Law; and where such *right of franchise and self-determination* is *expressly granted to, and required of,* "the qualified, property taxpaying voters" *residing in all other cities of the State of Oklahoma* to implement urban renewal and to create an *urban renewal authority empowered to acquire* property by eminent domain? and

(b) Do the identical subjects and purposes of separate enactments, *without variations except* sections on "Citation" and "Application" for each separate enactment, disclose any *"real"* or *"characteristic" differences* then existing to *justify varying treatment* for "qualified, property taxpaying voters" of cities *over 100,000* population from that accorded such category of voters in cities *under 100,000* population? and

(c) Whether the numerical classifications drawn as the basis for such varying treatment are unreasonable in the light of the *identical subjects* and *purposes of such legislation?* or does such varying treatment of *voting rights* of citizens concerning their *property* and rights conferring new powers of eminent domain in the Oklahoma Urban Renewal Statutes constitute "individous discrimination" that offends or violates either the "equal protection" of the law, the "rights," and "due process of law" guarantee of the United States Constitution?

2. Whether petitioners are denied "due process of law" under the 5th Amendment to the Constitution of the

United States where they are denied any right of or opportunity to exercise the right of franchise, or relief for denial thereof, concerning their properties affected thereby.

CONSTITUTIONS INVOLVED

CONSTITUTION OF THE UNITED STATES:
Fifth Amendment:

"No person shall be * * * deprived * * * of property, without due process of law; * * *."

Fourteenth Amendment, Section 1 in part:

"* * * No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of * * * property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

CONSTITUTION OF THE STATE OF OKLAHOMA:

Article I, Section 1:

"The State of Oklahoma is an inseparable part of the federal union, and the Constitution of the United States is the supreme law of the land."

Article II, Section 1:

"All political power is inherent in the people; and government is instituted for their protection, security and benefit, and to promote their general welfare; and they have the right to alter or reform the same whenever the public good may require it: Provided, such change be not repugnant to the Constitution of the United States."

Article II, Section 6:

"The courts of justice of the states shall be open to

every person and speedy and certain remedy afforded for every wrong and for every injury to person, property, or reputation; and right and justice shall be administered without sale, denial, delay or prejudice."

Article II, Section 7:

"No person shall be deprived of * * * property, without due process of law."

Article II, Section 33:

"The enumeration in this Constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people."

Article V, Section 32:

"No special or local law shall be considered by the Legislature until notice of the intended introduction of such bill or bills shall first have been published for four consecutive weeks in some weekly newspaper published or of general circulation in the city or county affected by such law, stating in substance the contents thereof, and verified proof of such publication filed with the Secretary of State."

Article V, Section 46, in part:

"Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law authorizing: * * * creating offices or prescribing the powers and duties of officers in counties, *cities*, towns, election or school districts * * * exempting property from taxation; * * *."

Article V, Section 50:

"Legislature shall pass no law exempting any property within this state from taxation, except as otherwise provided in this Constitution."

Article V, Section 59:

"Laws of a general nature shall have a uniform operation throughout the state, and where a general law can be made applicable, no special law shall be enacted."

STATUTES INVOLVED

OKLAHOMA STATUTES ON Urban Redevelopment:

11 O.S.A. 1601-1620. Laws 1959, page 61 *et seq.* Approved April 7, 1959. "The Urban Redevelopment Law"; for cities over 100,000 population.

11 O.S.A. 1651-1670. Laws 1959, page 43 *et seq.* Approved June 23, 1959. "The Urban Redevelopment Act"; for cities of 10,000 to 100,000 population.

11 O.S.A. 1701-1718. Laws of 1961, page 45 *et seq.* Approved June 29, 1961. "Urban Redevelopment Act of 1961"; for cities under 10,000 population.

The provisions of each of the foregoing are lengthy. Their pertinent text are printed in Appendixes "D", "E", and "F" hereof.

STATEMENT OF THE CASE

Petitioners are each owners of real property, taxpayers, and registered voter-citizens of the State of Oklahoma. Roy Isaacs so qualified in Oklahoma City. S. M. Roof, Loal C. Wilson, and J. V. Garrett so qualified in Tulsa, Oklahoma. Two separate Petitions were filed in State District Courts. Isaacs filed for himself and for others similarly situated at Oklahoma City against the City of Oklahoma City, a municipal corporation, Urban Renewal Authority, its Chairman, Vice Chairman, Secretary, Members

and Executive Director. Roof, Wilson and Garrett filed at Tulsa for themselves and all others similarly situated against Tulsa Urban Renewal Authority, its officers and directors, the City of Tulsa, Oklahoma, a municipal corporation, and its officers. All petitioners were

"qualified, property taxpaying voters"

of Oklahoma.

The District Court Petitions each sought Declaratory and Injunctive relief; *i. e.*, to decree invalid and unconstitutional certain provisions of the Urban Renewal Statutes of Oklahoma, which authorized and empowered the municipal governing bodies of Oklahoma City and of Tulsa, *to implement urban renewal for each such city without requiring, authorizing or allowing the*

"qualified, property taxpaying voters"

in either the *City of Tulsa* or in the *City of Oklahoma City*, the right and opportunity to determine by majority vote, at a special election called for such purpose, whether or not to implement urban renewal in their respective cities. The right to make such ultimate determination by majority vote, at a special election called for such purposes, was EXPRESSLY GRANTED by the statutes complained of to the

"qualified, property taxpaying voters"

residing in all OTHER CITIES OF THE STATE OF OKLAHOMA by such state legislation.

Complaints were presented by the District Court Petitions that the withholding and denial of such right of

franchise from the petitioners as citizens of Oklahoma, so qualified in Tulsa and in Oklahoma City, while such statutes expressly afforded such franchise rights and opportunity to other citizens so qualified, in all *other cities of the State of Oklahoma*, constituted a denial of the right to "due process of law" and a denial of "equal protection of the law" guaranteed to petitioners under the Constitution of the United States.

That the failure *to recognize and grant equal voting rights*, by state law, to state taxpaying voters, *based solely on differences in population of the respective cities*, on *identical subjects*, having *identical objectives*, for *all cities*, constitutes "invidious discrimination" against the petitioners; and, offends and violates the equal protection of the law and due process of law provisions of the 14th Amendment and 5th Amendment to the United States Constitution.

Respondents presented general demurrers to the Petitions (R. 29 and R. 57). The trial court sustained the demurrers (R. 32 and R. 58). Petitioners elected to stand on their Petitions and the courts dismissed with prejudice (R. 32 and R. 58). Timely motions for new trial (prerequisite to appeal under Oklahoma procedure) were duly filed (R. 34 and R. 60), overruled; and notice of appeal given (R. 35 and R. 61). Appeals were timely lodged in the Supreme Court of Oklahoma, by Petitions in Error (R. 1 and R. 44), upon the *original records* in the Tulsa appeal and with case-made attached to the Oklahoma City appeal.

The separate appeals, after briefs filed, were consolidated in the Oklahoma Supreme Court (R. 72) for consideration and decision before oral arguments. Both involved the same questions of law for determination.

REASONS FOR GRANTING THE WRIT

(a) The statutory denial, by withholding the right of franchise from the "qualified, property taxpaying voters" of Oklahoma City and Tulsa on the implementation of urban renewal, adversely affects the "civil rights" and "property rights" of approximately one-third of all the taxpaying urban voters of Oklahoma. Such rights are substantial and valuable.

(b) The Oklahoma Urban Redevelopment Statutes, enacted under the scheme and guise of three separate enactments, each expressly applying to cities of *certain fixed numerical population* (which combined encompass all the cities of the State of Oklahoma), identical in *subject* and *purpose*, reflected by the second and third enactments merely repeating the provisions of the first enactment, do not reflect any "real" or "characteristic" differences to justify *varying treatment of voting rights* for the "property taxpaying voters" of any cities of Oklahoma. The *objective* and *purposes* of the *legislation* are *identical*, hence *arbitrary classification by population alone*, does not constitute any *reasonable basis for varying treatment* of *voting rights* of *identical classes of voters;* i. e., "qualified, property taxpaying voters" of any such cities.

(c) The statutory denial by withholding the right of franchise from citizens of Tulsa and Oklahoma City, un-

der the circumstances shown, is tantamount to denial of "due process of law" under both the 5th Amendment and the 14th Amendment to the U.S. Constitution. In addition, it constitutes a denial of "equal protection of the law" guaraneed by the Constitution under the 14th Amendment, for identically situated citizens under the same or similar situations and circumstances.

(d) The refusal of the Oklahoma State Courts to protect petitioners *in their constitutional guarantees* constitutes an additional "denial of due process of law" under the United States Constitution sufficient to invoke judicial inquiry by the Supreme Court of the United States, upon the Petition herein for the relief sought by petitioners. All other avenues by which to seek relief have been exhausted. No other forum remains.

(e) At the time 11 O.S.A. 1601-1620 was enacted (April, 1959), only two cities of Oklahoma were recognized as having a need for any urban redevelopment law and authority to implement such law. However, the *same legislative session* (June, 1959) recognized that there was a need for the urban renewal law to be extended to encompass all cities over 10,000 population, but not exceeding 100,000 population (12 O.S.A. 1651-1670). This, *without any actual or material change of conditions in the "blight" or "blighted areas" or deterioration of the cities of Oklahoma.* The only *variation added by the second enactment,* in the treatment of the citizens involved, was the addition of subparagraph (c) to Section 1607 of the first act (shown by italics in Appendixes "E" and "F").

(f) The Oklahoma Urban Redevelopment Law is arbitrary and capricious, resting on a false and deficient population classification, excluding from the general law part of the class naturally belonging to and not dissimilar from the general class of city voters so qualified.

(g) The arbitrary and capricious legislative classification cannot be validated, by embracing each arbitrary and capricious class in a separate legislative act, so as to circumvent the prohibition of the Constitution against invidious discrimination and variation of treatment of citizens on identical matters.

(h) The denial of equal voting rights to voters in Oklahoma City and Tulsa, as the largest class, on the ground that their municipal problems are more acute, complex and confusing or that such voters are too ignorant and uninformed to cast an intelligent vote, or, upon the ground that voting in such cities is too cumbersome, expensive, impracticable and unnecessary, is a blanket indictment of the most fundamental process of democratic government and denies all voters of Oklahoma City and Tulsa, so qualified, the equal protection of the law.

(i) The Oklahoma State Courts have refused to recognize the clear mandates on equal protection of the law and due process of law provisions of the United States Constitution, for all citizens under similar situations and circumstances concerning the right of franchise.

(j) The Oklahoma courts have further refused to recognize the provisions and mandates of the Oklahoma Constitution, prohibiting the enactment of local and spe-

cial laws "authorizing" or "creating" offices in "cities" and further requiring that laws of a general nature shall have uniform operation throughout the state; which mandates have long been followed and so construed by a long line of decisions of the Oklahoma courts.

(k) That the refusal and denial of the rights complained of, paragraphs (i) and (j) above, constitute denial of "due process of law" which should invoke the concern and judicial inquiry by this court.

The basic questions presented by this Petition are whether the denial of equal voting rights constitutes a denial of equal protection of the law; and whether the withholding and denial of an opportunity to exercise franchise concerning property and property rights constitutes a denial of due process, under the 5th and 14th Amendments of the United States Constitution.

CONCLUSION

This Court in *Carrington* v. *Rash*, 13 L. ed. 2d 675 (1965), in reviewing voting rights in Texas, held (R. 101—Brief, p. 40):

> "Judicial inquiry under the equal protection clause does not end *with a showing of equal application among the members of the class defined by the legislation;* the courts must *reach and determine the question whether the classifications drawn in a statute are reasonable in the light of its purpose.*" (Emphasis supplied)

The Court further held, that,

> "Fencing out from the franchise a section of the population because of the way they may vote is constitu-

> tionally impermissible; that exercise of voting rights cannot constitutionally be obliterated because of a failure of the political views of a particular group of bona fide residents.
>
> "The states may not casually deprive a class of individuals of the vote because of some remote administrative benefit to the state."

The Court therein quoted from *McLaughlin* v. *Florida*, 379 U. S. 184, 191, 13 L. ed. 2d 222, 228, 85 Sup. Ct. 283, with approval as follows:

> "The Courts must reach and determine the question of whether the classifications drawn in a statute are reasonable in the light of its purposes."

The Oklahoma court heretofore applied the same process of reasoning in *Williams* v. *W. Lee Johnson*, 396 P. 2d 518 (Okl. 1964), in holding unconstitutional legislation creating a counciliation department in counties with population of more than 200,000 and less than 400,000, as a *local or special law*. The reason given:

> "* * * Since there was no *characteristic differences* justifying varying treatment for a county over 400,000 population and a county under 400,000 population, on the same problem or subject matter, measured by the same yardstick, *there is no 'characteristic difference'*."

Therein the Oklahoma Court properly applied the rule. It stated:

> "Attempted classification of counties on basis of population for legislative purposes *which is not founded upon real and substantial distinctions and in which designated differences do not bear some reasonable, rational relation to the subject matter is unconsti-*

tutional as a local or special law, O. S. 1961, Constitution, Art. 5, Sections 32, 46, 59." (Emphasis supplied)

This was a well-reasoned and well-researched opinion by Justice Williams, in which he quoted with approval from the third paragraph of the syllabus in *Barrett* v. *Board of Commissioners of Tulsa County*, 185 Okl. 111, 90 P. 2d 442, as follows:

> "Local or special laws are all those that rest on a false or deficient classification. Their vice is that they do not embrace. They create preference and establish inequality. They apply to persons, things, and places possessed of certain qualities or situations and exclude from their effect other persons, things, or places *which are not dissimilar in this respect.*" (Emphasis supplied)

In 24 Am. Jur. 2d on Elections, Section 53, it is said (R. 101, Brief of Plaintiffs in Error, p. 43):

> "The conception of political equality means only one thing—one person, one vote. Once the class of voters is chosen and their qualifications specified, there is no constitutional way by which equality of voting power may be evaded."

Where is the equality of *voting power* between the "taxpayer voters" of Oklahoma City and Tulsa on the one side and the "taxpayer voters" of the other cities of Oklahoma on urban renewal matters? The only significant differences recognized between them by the Legislature, to distinguish one group from the other, is in the *size of the population of the city* in which they reside.

In *Gomillion* v. *Lightfoot*, 364 U. S. 339, 5 L. ed. 2d 110, 81 Sup. Ct. 125, it is held that when the state exer-

cises power *wholly within the domain of state interest,* it is generally insulated from federal judicial review, *but that such insulation is not carried over when the state power is used as an instrument for circumventing federally protected rights, such as the right to equal protection of law and equal rights under the law.*

The majority opinion in the case at bar is based upon the fallacy that *classification by population alone* is valid for *any legislative purposes.*

In 16 Am. Jur. 2d on Constitutional Law, Section 511, it is stated:

> "It is a mistaken idea that because classification on the basis of population is sustainable in respect of legislation on certain objects, it may be appropriate for all purposes of classification in legislative enactments. Such a basis for classification must have a reasonable relation to the purposes and objects of the legislation and must be based upon a rational difference in the necessities or conditions found in the groups subjected to different laws. If no such relation and difference exists, the classification is invalid. * * *"

Until the adoption of the majority opinion in the case at bar, this Court has always seen fit to apply the above qualifications; and, if there were *distinguishing factors* to *justify different treatment for certain classes,* the distinctions have heretofore *been carefully pointed out,* instead of being glossed over, avoided and ignored, in the manner reflected by the majority opinion herein.

We respectfully submit that the questions here presented are of great public interest, involve the rights of

a great number of citizens of Oklahoma and perhaps other states, millions of dollars in property rights, and the possible expenditure of more millions of dollars of tax money on projects that may be unlawful under local state law, as measured by the requirements of the United States Constitution. Petitioners, for themselves and for the benefit of all other citizens of Oklahoma similarly situated, pray that this Court, in its sound judicial discretion, grant the Writ of Certiorari to the Supreme Court of the State of Oklahoma.

Respectfully submitted,

TED R. FISHER
LEWIS C. JOHNSON
200 Law Building
Tulsa, Oklahoma 74119
Attorneys for Petitioners

JUNE, 1967

APPENDIX "A"

Filed District Court of Tulsa County, Mar. 29, 1965. Samuel W. Fry, Court Clerk, State of Oklahoma, Tulsa County.

IN THE DISTRICT COURT WITHIN AND FOR TULSA COUNTY, STATE OF OKLAHOMA

No. 108,203

S. M. ROOF, et al., Plaintiffs,

vs.

TULSA URBAN RENEWAL AUTHORITY, a public body corporate, et al., Defendants.

JOURNAL ENTRY OF ORDERS AND JUDGMENT

NOW, on this 19th day of March, 1965, the above entitled cause comes on for hearing on the combined Motions and Demurrer of the Defendants and each of them to the Petition of the Plaintiffs, pursuant to assignment heretofore made.

The Plaintiffs are present by their attorneys, Johnson & Fisher, by Ted R. Fisher. The Defendants are present by their attorneys, Smith & Brown and Charles E. Norman, City Attorney, by Finis Smith.

Thereupon, said matter is duly argued to the Court, and the Court having heretofore been furnished with written Briefs by each of the parties and by the Attorney General of the State of Oklahoma, and being duly advised in the premises, finds that said Demurrer to Plaintiff's Petition should be sustained.

IT IS THEREFORE BY THE COURT ORDERED, ADJUDGED and DECREED that the Demurrer of the Defendants to the Petition of Plaintiffs should be and the same is hereby sustained and exceptions are allowed to Plaintiffs.

Thereupon, the Plaintiffs announced their election in Open Court to stand upon their Petition. Upon such election by Plaintiffs, the Court finds, ORDERS and ADJUDGES that Plaintiffs' Petition be and the same is hereby dismissed, and exceptions are allowed to Plaintiffs.

/s/ Raymond W. Graham
District Judge

APPROVED AS TO FORM:
JOHNSON & FISHER
By /s/ Ted R. Fisher
Ted R. Fisher
Attorneys for Plaintiffs

SMITH & BROWN
By /s/ Finis Smith
/s/ Charles Norman
Charles Norman, Tulsa City Attorney
Attorneys for Defendants.

APPENDIX "B"

Filed District Court, Oklahoma County, Okla. May 25, 9:49 A. M. '64. Dale Smith, Court Clerk. By G. A. Cantell.

IN THE DISTRICT COURT OF OKLAHOMA COUNTY, STATE OF OKLAHOMA

No. 162,322

Roy Isaacs, for himself and others similarly situated, Plaintiff,

vs.

City of Oklahoma City, Municipal Corporation; Urban Renewal Authority; Granville Tomerlin, Chairman; F. D. Moon, Vice-Chairman; C. Kenneth Woodard, Secretary; Reuben G. Martin, Member; Ralph L. Bolen, Member; James T. Yeilding, Executive Director, Defendants.

JUDGMENT

On this 15th day of May, 1964, the above-entitled cause came on for hearing pursuant to regular assignment upon the demurrers of the defendants herein to each cause of action in the amended petition of the plaintiff, the parties appearing by their several attorneys of record, and the court having heard argument of counsel and being fully and sufficiently advised in the premises, finds that the Urban Redevelopment Law attacked on the grounds of unconstitutionality by plaintiff herein, is constitutional and valid and that the demurrers of the defendants should be sustained, and that the amended petition of the plaintiff fails to state a cause of action against the defendants or any of them.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the court that the demurrers of the defendants to each cause of action of plaintiff's amended petition herein be, and the same are hereby sustained, to which plaintiff excepts and his exceptions are allowed.

Thereupon plaintiff in open court announced that he elected to stand upon his amended petition and the court thereupon finds that said causes of action should be dismissed.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the court that the causes of action in plaintiff's amended petition be, and the same hereby are, dismissed, to which plaintiff excepts and his exceptions are allowed.

Thereupon plaintiff gave notice in open court that he intended to and did appeal to the Supreme Court of the State of Oklahoma and requested that such notice be noted upon the proper trial docket of the court, which is accordingly done.

Thereupon, plaintiff requested an extension of time within which to make and serve case-made or transcript herein, and for good cause shown, it is ordered that the time within which plaintiff shall make and serve case-made or transcript be and is hereby extended to July 14, 1964, defendants to have three days thereafter within which to suggest amendments and the same to be signed and settled upon three days' notice by either party.

Glen O. Morris
District Judge

APPROVED AS TO FORM:
SID WHITE
Sid White, Attorney for Plaintiff

HORACE THOMPSON

Horace Thompson, Assistant Municipal Counselor for Defendant, City of Oklahoma City

CROWE, BOXLEY, DUNLEVY, THWEATT, SWINFORD & JOHNSON

By V. P. Crowe

V. P. Crowe, and

PAUL R. McDANIEL

Paul R. McDaniel

MONNET, HAYES, BULLIS, GRUB & THOMPSON

By COLEMAN HAYES

Coleman Hayes,

Attorneys for Defendants Urban Renewal Authority, Granville Tomerlin, F. D. Moon, C. Kenneth Woodard, Reuben G. Martin, Ralph L. Bolen and James T. Yeilding.

APPPENDIX "C"

Filed In Supreme Court of Oklahoma Dec. 27, 1966. Andy Payne, Clerk.

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

No. 41,276

Roy Isaacs for himself and others similarly situated, Plaintiff in Error,

vs.

The City of Oklahoma City, a Municipal Corporation, Urban Renewal Authority, Granville Tomerlin, Chairman, F. D. Moon, Vice-Chairman, C. Kenneth Woodard, Secre-

tary, Reuben G. Martin, Member, Ralph L. Bolen, Member, James T. Yeilding, Executive Director, Defendants in Error.

AND

No. 41,527

S. M. Roof, Loal C. Wilson and J. V. Garrett, Plaintiffs in Error,

vs.

Tulsa Urban Renewal Authority, a purported public body corporate, of Tulsa, Oklahoma, and its Officers and Members, Leeman Nix, Chairman, Robert Laird, Vice-Chairman, Murray McCune, Member, Paul Chapman, Executive Director and Secretary, and The City of Tulsa, Oklahoma, a Municipal Corporation, Defendants in Error.

CONSOLIDATED UNDER NO. 41,276

SYLLABUS

1. The purpose of Urban Redevelopment Act was to enable cities to take steps to eliminate slums and blighted areas, injurious to public health, safety, morals and welfare of residents of state.
2. While the Legislature cannot delegate its constitutional power to make laws, it can make a law which delegates the power to determine some fact or state of things upon which the law shall become operative, that is the Legislature may enact general provisions but leave to those who are to act discretion in filling in the details, provided the Legislature fixes reasonable and definite standards governing the exercise of such authority.
3. The clearance and redevelopment of blighted areas of a city for which private property may be acquired by condemnation under Urban Redevelopment Act are a "public use and purpose", and hence Act is not invalid

as authorizing city to acquire private property by condemnation for a private use, even though Act authorizes city to sell, lease or otherwise transfer property acquired to private redevelopers who may profit therefrom.

4. Legislature may, after declaring policy, and fixing primary standard, confer upon others power to prescribe regulations to carry legislation into effect.

5. Where language of statute is plain and unambiguous, there is no room for the construction thereof, and courts may not search for a meaning beyond the statute itself, but will give it the meaning intended by the Legislature.

6. Exemption of property from taxation, while it is owned by a city, or an Urban Renewal Authority, does not do violence to constitutional provisions with respect to taxation.

7. Urban Redevelopment Act was not vague or indefinite and does not violate due process clause of constitution.

8. Judicial examination of any law enacted by the Legislature proceeds on the assumption that such law is valid unless it contravene an express inhibition of the constitution or one necessarily implied from some express affirmative constitutional provision.

9. Urban Redevelopment Act, in being applicable only to cities with a population in excess of 100,000 is not a special or local law and is not arbitrary or capricious and is not unconstitutional on these grounds.

10. An act of the Legislature is not to be stricken down on ground that it is unconstitutional, unless infringement of the constitution is clear beyond a reasonable doubt.

APPEAL FROM THE DISTRICT COURT OF OKLAHOMA COUNTY,

AND

APPEAL FROM THE DISTRICT COURT OF TULSA COUNTY, STATE OF OKLAHOMA

Hon. Glen O. Morris, District Judge
Hon. Raymond W. Graham, District Judge

Appeal from order and judgment sustaining demurrer to amended petition in declaratory judgment action. Roy Isaacs, plaintiff in error appeals in case No. 41,276. Appeal from order and judgment dismissing petition in declaratory judgment action. S. M. Roof, et al., plaintiffs in error appeal in case No. 41,527.

AFFIRMED

Sid White, Oklahoma City, and Ted R. Fisher of Johnson & Fisher, Tulsa, Okla., For Plaintiffs in Error.

Roy H. Sempter, Horace Thompson, Okla. City, Okla., For Defendant in Error, City of Oklahoma City.

V. P. Crowe and Paul R. McDaniel, of Crowe, Boxley, Dunlevy, Thweatt, Swinford & Johnson, & Coleman Hayes and Russell F. Thompson, of Monnett, Hayes, Bullis, Grubb & Thompson, Oklahoma City, Oklahoma and Dan Batchelor, Okla. City, Okla., For Defendant in Error, Urban Renewal Authority.

Smith & Brown, and Chas. E. Norman, by Finis Smith, Tulsa, Oklahoma, For Defendants in Error, Tulsa Urban Renewal Authority.

T. Murray Robinson & Wm. N. Christian, of Robinson, Robertson and Barnes, Oklahoma City, Oklahoma, For S. D. Rorem, Amicus Curiae.

HALLEY, C. J.:

There are two cases involved here, which because of the similarity of issues, have, by our order of _____ 1966, been consolidated for decision.

The first case is an appeal from the judgment of the District Court of Oklahoma County in sustaining a demurrer to the petition of Roy Isaacs, plaintiff in error here, who, for himself and others similarly situated, filed a declaratory judgment action against the defendants in error, the City of Oklahoma City, a municipal corporation, the Urban Renewal Authority and the individual members of the Authority's Board of Commissioners and its executive director, seeking a declaration of the unconstitutionality of the Urban Redevelopment Law, 11 O. S. 1961, Section 1601 et seq., and for injunctive relief.

The second case is an appeal from the District Court of Tulsa County in sustaining the demurrer of the defendants in error, Tulsa Urban Renewal Authority and its officers, and the City of Tulsa, Oklahoma to the petition of the plaintiffs in error, S. M. Roof, L. C. Wilson and J. V. Garret. As in the Oklahoma City case, plaintiffs in error, in the Tulsa case sought a declaratory judgment against the Tulsa Urban Renewal Authority, its officers, and against the City of Tulsa, Oklahoma, decreeing the creation of the Tulsa Urban Renewal Authority under

the provisions of 11 O. S. 1961, Section 1601-1620, to be void and violative of certain provisions of the Oklahoma Constitution, and for injunctive relief.

In the Oklahoma City case, all defendants in error filed motions to strike and to make more definite and certain with respect to the petition of plaintiff. These motions were sustained in part and overruled in part by the trial court. Accordingly, the plaintiff in error filed an amended petition, to which each of the defendants in error demurred. All demurrers were sustained by the trial court and the Urban Redevelopment law was held to be constitutional. Plaintiff in error filed his motion for a new trial, which was overruled, and he thereupon perfected his appeal here.

In the Tulsa case, the general demurrer to plaintiff's in error petition was sustained. Plaintiff's in error elected to stand on their petition. The trial court dismissed the action. Plaintiff's in error filed a motion for a new trial, which was overruled. Plaintiff's in error thereupon lodged their appeal here.

For convenience, plaintiffs in error in both cases shall be referred to herein as plaintiffs and the defendants shall be referred to by their respective names, if necessary.

The statutory provisions under attack, 11 O. S. 1961, Sec. 1601-1620, covers some thirty pages in the statutes, and we do not deem it necessary to set out the act in full, but reference will be made herein to the various sections of the act.

Generally it may be said, as stated in Section 1604 of the act, that the over-all purpose of the act is to enable certain cities to take steps to eliminate slum and blighted areas which constitute a serious and growing menace to the public health, safety, morals and welfare of the citizens of the state, the elimination of which is declared to be a matter of public interest.

Many grounds are asserted by plaintiff for the unconstitutionality of the act, which we number and will discuss consecutively, for convenience and to meet the method of presentation.

Plaintiff, as his first ground, contends that the act attempts to confer legislative, executive and judicial authority upon the city and the authority. Other courts, in discussing this objection to similar Urban Renewal Acts, have uniformly rejected this contention, where the legislature has adopted the policy and set forth the guide lines which are to be utilized by the cities and the authority. The Supreme Court of Kansas, in the case of State ex rel. Fatzer v. Urban Renewal Agency of Kansas City, 179 Kans. 435, 296 P. 2d 656, had the following to say about this point:

> "We think it clear that while the legislature cannot delegate its constitutional power to make a law, it can make a law which delegates the power to determine some fact or state of things upon which such law shall become operative. In other words, the legislature may enact general provisions but leave to those who are to act certain discretion in 'filling in the details' so to speak, provided of course, it fixes reasonable and definite standards which govern the exercise of such authority."

In addition thereto, we have consistently held in the past, in a variety of factual situations that the legislature has no authority to delegate power to an administrative board to make laws, but it may delegate to an administrative board the authority to prescribe and enforce rules and regulations to carry into effect and to aid in the enforcement of existing laws. See Rush v. Brown, 187 Okl. 97, 101 P. 2d 262, and also in the case of Harris v. State, 207 Okl. 589, 251 P. 2d 799, we quoted with favor the following:

> "The Legislature cannot delegate legislative power, but it may delegate authority or discretion to be exercised under and in pursuance of the law. It may delegate power to determine some facts or state of things upon which the law makes its own operation depend."

The same argument was made in connection with the establishment of the Oklahoma Turnpike Authority, and in that case, styled Application of Oklahoma Turnpike Authority, 203 Okl. 335, 221 P. 2d 795, we likewise held that such delegation of authority by the legislature to the Turnpike Authority did not violate the constitutional provision forbidding the delegation to any one of any of the powers of the state. We therefore hold that the first contention of the plaintiff to be without merit.

For his point No. 2, plaintiff asserts that the act allows a city and an authority to condemn land and property for other than public purposes. The Supreme Court of the United States, in the case of Berman v. Parker, 348 U. S. 26, 99 L. Ed. 27 (1954), passed upon the validity of the Urban Renewal Act of the District of Columbia.

In connection with a similar objection raised as to the District of Columbia Act, the Court stated:

> "Once the object is within the authority of Congress, the right to realize it through the exercise of eminent domain is clear. For the power of eminent domain is merely the means to the end. * * * Here one of the means chosen is the use of private enterprise for the redevelopment of the area. Appellants urge that this makes the project a taking from one businessman for the benefit of another businessman. But the means of executing the project are for Congress and Congress alone to determine, once the public purpose has been established. * * * The public end may be as well or better served through an agency of private enterprise than through a department of government—or so the Congress might conclude. We cannot say that public ownership is the sole method of promoting the public purposes of community redevelopment projects."

Likewise, the Kansas court, in State ex rel. Fatzer v. Urban Renewal Agency of Kansas City, supra, stated:

> "It is elementary that the legislature possesses no power to authorize the appropriation of one's property for a private use or purpose, but it is equally well settled that the right to take private property for a public use is inherent in the state, and that the legislature may authorize the acquisition of private property for a public use provided the owner is compensated therefor."

In this connection see also Delfield v. City of Tulsa, 191 Okl. 541, 131 P. 2d 754.

Section 1604 of the act in question makes it clear that the purposes for which property may be condemned

are public purposes, and we hold therefore, that plaintiff's second point is not well taken.

Plaintiff, for his 3rd point, maintains that the act confers on the city and the authority the power to arbitrarily ascertain and declare public purpose, without definite standards. This contention is not supported by a reading of the act. Sections 1603 (g) (h), 1604, 1605 and 1607 make it apparent that neither the city nor the authority have the power to arbitrarily ascertain and declare public purposes. These sections set forth clear and definite standards to be followed. Similar standards were approved in the Berman v. Parker case, supra. We find that this is not a valid objection.

For his 4th objection, plaintiff argues that the act allows the city to "judicially" determine blighted areas. The act does authorize the city to declare and identify blighted areas, but only according to the standards set forth in the act. Such determination is manifestly not an exercise of "judicial" authority. There is no "judicial" authority conferred upon the city by the act.

As objection No. 5, the plaintiff contends that the act allows the city and the authority to condemn property and then to sell it to private interests. A review of the authorities indicates that this is one of the most frequently raised objections to Urban Renewal Act. Without exception, redevelopment programs have been upheld against this type of objection, usually on the grounds that the public use or public purpose is legitimately served by the legislative object of slum or blighted area clearance, and

the fact that private interests benefit incidentally or that private parties acquire ownership after the public purpose of the elimination of the undesirable conditions has been served, is merely incidental to the main legislative purpose. Some 21 cases are cited by the annotator in 44 A.L.R. 2d 1414, at page 1420, including the Berman v. Parker case, supra, rejecting the argument raised by plaintiff herein under his 5th point. We therefore, in accord with the weight of authority, hold plaintiff's 5th objection to be without merit.

Plaintiff, in his 6th objection, asserts that the act gives to the city and the authority the power to create indebtedness and to issue bonds, all in violation of the Oklahoma Constitution. He further asserts that the act unconstitutionally empowers the city or the authority to create debts. Plaintiff is correct in his assertion that the act gives to the city the power to establish means for the financing of redevelopment programs, and also that the act grants to the authority the power to issue revenue bonds. However, such power, granted by the act to either the city or the authority, is not in derogation of the Constitution of Oklahoma, but is in accord with it. Section 1611(e) of the act permits a city to issue and sell its general obligation bonds, but only in accordance with the limitations prescribed by the laws of the state. Section 1610(k) (5) and (6) forbids an authority to issue general obligation bonds, but Section 1616 (a) authorizes an authority to issue revenue bonds and sub-section (b) provides that such revenue bonds shall not constitute an indebtedness of the state or any city. Also the purchasers

of such bonds would be charged with knowledge that the bonds would not constitute an indebtedness of the state or any city. We must presume that any city or authority, issuing either general obligation bonds or revenue bonds would comply with the laws of the state with reference thereto. The legislative enactment is satisfactory as to form and content. We therefore find nothing of substance in plaintiff's 6th objection.

For his 7th point, plaintiff maintains that the act is invalid because it allows a city or the authority to exempt property from taxation. This position is not supported by the terms of the act itself. Section 1615 provides for the exemption of property from taxation which is owned by the authority, but Section 1615 (b) provides that such exemption is valid only as long as the authority owns the property. A similar contention was raised in the Oklahoma Turnpike case, supra, and there we held contrary to the position of the plaintiff. We so hold here, and find that plaintiff's contention is without merit.

Next, for point No. 8, plaintiff maintains that the act, in effect, precludes judicial review of findings made by a city or an authority. This contention is without merit, as the act, in Section 1613, sets out the manner in which there may be a judicial review of the actions of either the city or an authority.

Plaintiff, for his 9th point, asserts that the act is so vague and indefinite as to violate due process of law. A careful examination of the act reveals that the legislature has set forth definite and certain standards in the act in

such a degree as to nullify any objection of indefiniteness, and we therefore hold that plaintiff's point No. 9 is without merit. See Herzinger v. Mayor and City Council of Baltimore, 98 A. 2d 87 (Md. 1953).

For his 10th point, plaintiff maintains that the act precludes cities embracing more than one county from acting under the statute. The section in question, 1608 (j), provides:

> "Notwithstanding the provisions of this act, the provisions of this act shall not apply across county lines, regardless of annexation of territory across county line by a city."

This section would appear to be only a jurisdictional limitation of a city's power to approve an urban renewal project that extends across a county line, and does not affect, in any sense, the right of a multi-county city, to participate in the urban renewal program. We do not consider that the Legislature would do a vain and useless thing. The interpretation asked for by the plaintiff would make the act inapplicable to both Oklahoma City and Tulsa, as they were both multi-county cities at the time of the passage of the act. Such could not have been the legislative intent, and we so hold.

For his next point, plaintiff draws our attention to the fact that the Legislature has, since 1955, enacted five Urban Renewal Acts. The first two of such acts were subsequently repealed, with the provisions contained therein being generally covered by 11 O. S. 1961, Section 1601-1620, with which we are concerned here, which act was enacted by the Legislature in 1959, and numerically speak-

ing is the third Urban Renewal Act promulgated. This Act is made applicable only to cities having a population over 100,000, and would of course, apply only to Oklahoma City and Tulsa.

The fourth Act was also passed in 1939. It was designated as the "Urban Redevelopment Act" and was expressly made applicable to cities of 10,000 to 100,000 population. The last Act, enacted in 1961, was designated as "Urban Redevelopment Act of 1961". It is made applicable to cities of less than 10,000 population.

Under express provisions contained in the last two Acts, it is provided that no such city shall exercise the authority granted by the Act until a majority of the qualified voters in such city shall have approved the same.

Under the provisions of the third Act, which is at issue here, no such voting rights are granted to the voters in cities with a population of 100,000, but the authority to exercise the rights granted by the Act is vested in the governing body of such city, who shall, by appropriate resolution, proceed to exercise the authority granted by the Act.

Plaintiff argues that to deprive the citizens of a city with a population of 100,000 of the right to vote on such an issue is unreasonable and arbitrary and violates the equal protection of the law guaranteed by the Fourteenth Amendment of the U. S. Constitution and the requirement of the Oklahoma Constitution that laws of a general nature shall have uniform application throughout the state.

Plaintiff further asserts that when determining whether the Act complies with the Constitutional requirement respecting uniform application of laws throughout the state, that these three acts must be considered as Legislative enactments in pari materia. That when so considered, it is obvious that the voting restriction applicable to cities of a population of 100,000 is arbitrary and capricious and is a local or special law.

Keeping in mind that the constitutionality of only one Act, 11 O.S. 1961, Section 1601-1620, is at issue here, we feel that the confidence placed by plaintiff in the role of pari materia is misplaced. The rule of pari materia is a rule of judicial construction applicable only when the terms of a statute are ambiguous or of doubtful significance. See 82 C.J.S. 366(b) Statutes, p. 813. We have heretofore applied the rule to harmonize or sustain conflicting statutes. Plaintiff does not suggest any ambiguity with respect to the statutes in question. We therefore are not inclined to place much weight on his argument with respect to the rule of pari materia.

Neither are we inclined to attach great significance to the argument that the Act is an example of a special or local law which is prohibited by our Constitution. At the time of the enactment of the Act in question it applied only to Oklahoma City and Tulsa, as they were the only cities in Oklahoma with a population in excess of 100,000. Such a limitation does not of itself constitute an arbitrary or capricious classification. As we stated in the case of Lowden v. Oklahoma County Excise Board, 186 Okl. 706, 100 P. 2d 448, at page 450:

"In order for a law to be general in its nature and to have a uniform operation, it is not necessary that it shall operate upon every person and every locality in the state. A law may be general and have a local application or apply to a designated class if it operates equally upon all the subjects within the class for which is was adopted."

The courts of other states, when faced with the same argument as espoused by plaintiff here have uniformly held that such classification, based on population, not to be violative of constitutional requirements similar to our own. See Williamson v. Housing Authority, etc., of Augusta, 186 Ga. 673, 199 S.E. 43; State v. Housing Authority of New Orleans, 190 La. 710, 182 So. 725; Frazer v. Carr, 360 S.W. 2d 449 (1952, Tenn.).

We therefore are constrained to hold against plaintiff on this point.

For his last point, plaintiff maintains that a city or an authority, under the Act, can encumber property by the issuance of bonds, without the vote of the people, has heretofore been disposed of in our ruling in connection with plaintiff's point No. 6.

We therefore hold that the Urban Redevelopment Law, as set forth in 11 O. S. 1961, et seq., to be valid and constitutional.

During the pendency of this case on appeal, it has been called to the attention of the court that there is presently pending in the District Court of Oklahoma County a case wherein the constitutionality of the Urban Re-

development Law is being attacked on grounds other than the ones enumerated herein. Suffice it to say that our review of this matter has been limited to the points raised in this opinion and none other.

Our opinion herein makes it unnecessary for us to further consider the contention of the defendant city that plaintiff's appeal should be dismissed because of the failure of plaintiff to make defendant city a proper party to this appeal.

Judgment affirmed.

JACKSON, V.C.J., and DAVISON, WILLIAMS, and BERRY, JJ. concur.

BLACKBIRD, IRWIN, HODGES and LAVENDER, JJ., concur in part and dissent in part.

APPENDIX "D"

11 O.S.A.

"Section 1601. Citation

"This Act shall be known and may be cited as the Urban Redevelopment Law. Laws 1959, p. 61, Section 1."

"Section 1602. Application

"The provisions of this Act shall apply to all incorporated cities of this State containing in excess of one hundred thousand (100,000) population as shown by the 1950 Federal Decennial Census or any succeeding Federal Decennial Census. Laws 1959, p. 61, Section 2."

"Section 1607. Resolution by local governing body

"(a) No Urban Renewal Authority created by this Act shall exercise the authority or powers granted by this

Act until after the local governing body shall have determined by resolution that such action is in the public interest and elects to have such authority or powers exercised by the Urban Renewal Authority if one exists or is subsequently established.

"(b) No incorporated city shall exercise the authority granted by this Act until after the local governing body shall have adopted a resolution finding that: (1) One or more blighted areas exist in its area of operation; and (2) The rehabilitation, conservation, redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals and welfare of the residents of such area. Laws 1959, p. 64, Section 7."

APPENDIX "E"

11 O.S.A.

"Section 1651. Citation

"This Act shall be known and may be cited as The Urban Redevelopment Act. Laws 1959, p. 43, Section 1."

"Section 1652. Application

"The provisions of this Act shall apply to all incorporated cities of this State containing in excess of ten thousand (10,000) population and not to exceed one hundred thousand (100,000) population as shown by the 1950 Federal Decennial Census, or any succeeding Federal Decennial Census. Laws 1959, p. 44, Section 2."

"Section 1657. Resolution by local governing body *and approval by voters.* (Emphasis supplied)

"(a) No Urban Renewal Authority created by this Act shall exercise the authority or powers granted by this Act until after the local governing body shall have determined by resolution that such action is in the public interest and elects to have such authority or powers exercised by the Urban Renewal Authority if one exists or is subsequently established.

"(b) No incorporated city shall exercise the authority granted by this Act until after the local governing body shall have adopted a resolution finding that: (1) One or more blighted areas exist in its area of operation; and (2) the rehabilitation, conservation, redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals and welfare of the residents of such area.

(c) *No incorporated city shall exercise the authority granted by this Act until a majority of the qualified property taxpaying voters thereof who vote at an election to be held for that purpose shall have approved the same. Laws 1959, p. 46, Section 7.*" (Emphasis supplied)

APPENDIX "F"

11 O.S.A.

"Section 1701. Citation

"This act shall be known and may be cited as The Urban Redevelopment Act of 1961. Laws 1961, p. 45, Section 1."

"Section 1702. Application

"The provisions of this act shall apply to all incorporated cities of this state containing ten thousand (10,000) or

less population according to the last preceding Federal Decennial Census. Laws 1961, p. 45, Section 2."

"Section 1707. Resolution—*Approval by voters* (Emphasis supplied)

"(a) No Urban Renewal Authority created by this act shall exercise the authority or powers granted by this act until after the local governing body shall have determined by resolution that such action is in the public interest and elects to have such authority or powers exercised by the Urban Renewal Authority if one exists or is subsequently established.

"(b) No incorporated city shall exercise the authority granted by the act until after the local governing body shall have adopted a resolution finding that: (1) one or more blighted areas exist in its area of operation; and (2) the rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals, and welfare of the residents of such area.

"(c) *No incorporated city shall exercise the authority granted by this act until a majority of the qualified property taxpaying voters hereof who vote at an election to be held for that purpose shall have approved same. Laws 1961, p. 48, Section 7.*" (Emphasis supplied)